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10/537,148	06/02/2005	Francisco Javier Romero Amaya	38184.04013US	1705

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MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W., SUITE 1100
WASHINGTON, DC 20006

EXAMINER	
ORWIG, KEVIN S	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/537,148	ROMERO AMAYA ET AL.	
	Examiner	Art Unit	
	Kevin S. Orwig	1611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *2/18/10*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1, 2, 5, 6, and 21-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5,6 and 21-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The amendments and arguments filed Feb. 18, 2010 are acknowledged and have been fully considered. Claims 1, 2, 5, 6, 21-26 are pending and currently under consideration. Claims 3, 4, and 7-20 are cancelled. No claims are amended.

OBJECTIONS/REJECTIONS MAINTAINED

The rejection of claims 1, 2, and 21-25 under 35 U.S.C. 103(a) over JAETSCH, ESSINGER, and KIRBY is maintained as discussed below.

The rejection of claims 5 and 6 under 35 U.S.C. 103(a) over JAETSCH, ESSINGER, KIRBY, and BUSCHHAUS is maintained as discussed below.

The rejection of claim 26 under 35 U.S.C. 103(a) over JAETSCH, ESSINGER, KIRBY, and ISATO is maintained as discussed below.

The double patenting rejections of record have been maintained as no action regarding these rejections has been taken by applicants at this time.

Claim Rejections - 35 USC § 103 (Maintained)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

> invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over JAETSCH (U.S. 2001/0027217; Published Oct. 4, 2001; cited in Office Action dated Jun. 19, 2008) in view of ESSINGER (U.S. 5,665,678; Issued Sep. 9, 1997) and KIRBY (WO 99/18787; Published Apr. 22, 1999).

1. Jaetsch discloses bifenthrin and resin-containing adhesives (i.e. glue) for wooden material or wood composites (title; abstract; pars. [0018] and [0027]; Example of execution 5). Jaetsch teaches that it is known to produce plywood and LVL boards etc.

with anti-insect, anti-termite, and anti-fungal efficacy by incorporating the appropriate biocides into the adhesive (par. [0004]). Jaetsch teaches, *inter alia*, plywood, LVL, and particle boards as examples of wooden materials useful in the invention (par. [0032]). Jaetsch teaches that one problem associated with incorporating biocides into adhesives for wood products is that the biocides often cannot disperse sufficiently to achieve the desired efficacy (par. [0005]).

2. Jaetsch also discloses various additives included in the formulations of their invention (par. [0021]). These additives include anti-fungal agents (pars. [0024] and [0025]) and flour, which is a commonly known spreadability enhancer for adhesives (examples 1, 3, and 4). Jaetsch discloses a variety of resins useful in their invention, including melamine-urea copolymer resin, phenol resin, resorcinol resin, urethane resin, and isocyanate resin (par. [0018]).

3. Jaetsch is silent as to the particle size of bifenthrin in the adhesive formulation. However, one would have strong motivation to identify the appropriate particle size since Jaetsch notes the prior art problems of dispersability, and correlates dispersability with efficacy of the insecticide-containing adhesive (par. [0005]). Thus, one would have looked to the literature for guidance.

4. As the skilled artisan would have been aware, incorporating hydrophobic pyrethroid compounds such as bifenthrin into aqueous compositions (such as the compositions taught by Jaetsch) is accomplished by forming an emulsion or suspension in which the bifenthrin is dispersed. This is evident from the prior art. For example, Essinger discloses water dispersed formulations of insecticides and teaches that

insecticides having low water solubility are frequently formulated as water-dispersed formulations such as wettable powders (WP), water-dispersible granules (WG), suspension concentrates (SC) and the like (title; abstract; col. 1, lines 7-25; col. 4, lines 52-65; claim 1). Essinger teaches that aging stability and suspensability of such formulations requires as small dispersed particle size (e.g. 2-20 μm mean size) and teaches that pyrethroid insecticides such as bifenthrin are useful in the invention (col. 1, lines 26-33; col. 4, line 52 to col. 5, line 3; claims 1, 6, 19, 27, and 32).

5. Furthermore, Kirby discloses methods for dispersing insoluble materials in aqueous solution (abstract). Kirby teaches that active principals such as insecticides are advantageously used in WP, WG, and SC formulations and teaches that bifenthrin is an insecticidal active that is commonly granulated as a powder (p. 16, lines 3-15). Kirby teaches that WP and WG formulations are generally produced by milling the active principal either alone or in combination with excipients to a particle size that is typically in the 5-15 μm range (p. 19, line 17-19; p. 20, lines 6-8). In the case of SC formulations, the mean particle size of the dispersed solid is below 5 μm, more typically in the range of 1-3 μm (p. 23, lines 15-20).

6. In light of these teachings, it would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to use a particulate bifenthrin having a mean particle size in the range of 1-15 μm in the wood adhesives taught by Jaetsch. One would have been motivated to do so since Jaetsch discusses potential problems of dispersability of insecticides in adhesives, and correlates dispersability with efficacy of the insecticide-containing adhesive but is silent as to the particle size of bifenthrin in the

adhesive formulation. Further, it is well within the skill of the ordinary artisan to optimize the particle size of the bifenthrin active ingredient to provide maximal dispersability and thus maximal anti-insecticide effect. One would have had a high expectation of success in doing so since each of the cited references is concerned with dispersability of insecticides (all including bifenthrin). Thus, it appears that it would have been conventional for an artisan to use bifenthrin in the instantly claimed size range and the combination of Jaetsch, Essinger, and Kirby renders claims 1, 2, and 21-25 obvious.

Response to Arguments

Applicants' arguments have been fully considered but are not persuasive. Applicants argue that the biocides in Jaetsch are dissolved, not particulate. Based on this argument, applicants assert that Jaetsch teaches away from the claimed invention (response, p. 6).

Applicants' assertion that the biocides of Jaetsch are dissolved is incorrect and completely unsupported by Jaetsch's teachings. Applicants' entire argument is predicated on the incorrect assertion that Jaetsch teaches *dissolved* biocides. This is not the case. Applicants point to par. [0008] of Jaetsch in support of their assertion. Paragraph [0008] contains the only mention of the word "dissolved" in the entire document. The paragraph reads:

> "This invention aims to supply the technique by which the disadvantages of the above mentioned existing technique can be dissolved."

As is clear to any ordinary artisan, this paragraph does not relate to the solubility of the biocides of the invention. Rather, this paragraph is merely a statement that

Jaetsch's invention overcomes the disadvantages of the prior art. It is true that the word "dissolved" is used. However, it is clear that this word, indeed that the entire paragraph, does not relate to biocides at all, let alone describe the form of the biocides in the adhesives. Rather the term "dissolved" in the context of this paragraph conveys the meaning of "solved", "resolved", or "overcome" since the paragraph is stating that the invention disclosed by Jaetsch solves or overcomes the disadvantages of the prior art. Moreover, throughout the rest of the disclosure, Jaetsch teaches dispersed biocides, not dissolved, as is asserted by applicants. See Jaetsch at pars. [0084], [0086], and [0087], which state that the formulation of the invention achieved sufficient *dispersion* of the biocides in the adhesive (par. [0086] is specifically directed to dispersed bifenthrin. Clearly, the biocides of the invention are described as *dispersed*, not dissolved. Thus, Jaetsch clearly does not teach away from the instant invention. Rather it is clear that Jaetsch teaches dispersed biocides, which, by definition, must be particulate. It is further noted that while a solvent is used, it does not necessarily mean that it dissolves the biocides, as incorrectly argued by applicants. For example, the solvent in each of the Examples of execution is water. Bifenthrin is not soluble in water. It is apparent that the solvent is present as a vehicle for the other (i.e. resin components and additives). Regardless, of its intended use, it is clear from Jaetsch's teachings that the biocides are dispersed, not dissolved.

Applicants argue that a skilled artisan would not be motivated to add a particulate bifenthrin because they assert that Jaetsch "expressly avoided particulates" (response, p. 7).

The fact that Jaetsch uses dispersed, particulate biocides (including bifenthrin) is discussed and established *supra*. Applicants are invited to point, by paragraph number, to where Jaetsch allegedly expressly teaches avoiding particulates. Indeed, such a teaching is absent in Jaetsch.

Applicants argue that a skilled artisan would not combine the references because Essinger and Kirby do not mention glues or resins (response, p. 7).

This argument has no merit at least for the reason that the examiner provided explicit motivation for the artisan to look to these references (e.g. the silence of Jaetsch as to the particle size of the biocides), and the similarity of the compositions with which Jaetsch, Essinger, and Kriby are concerned (see pars. 4-6 of the Office Action dated 8/18/09). Glues and/or resins need not be mentioned in each and every reference in order for them to be combined. Essinger discloses water dispersed formulations of insecticides (just as Jaetsch does) and teaches that insecticides having low water solubility are frequently formulated as water-dispersed formulations such as wettable powders (WP), water-dispersible granules (WG), suspension concentrates (SC) and the like (title; abstract; col. 1, lines 7-25; col. 4, lines 52-65; claim 1). Essinger teaches that aging stability and suspensability of such formulations requires as small dispersed particle size (e.g. 2-20 μm mean size). Kirby teaches that insecticides are advantageously used in WP, WG, and SC formulations and teaches that bifenthrin is an insecticidal active that is commonly granulated as a powder (p. 16, lines 3-15). Kirby teaches that WP and WG formulations are generally produced by milling the active principal either alone or in combination with excipients to a particle size that is typically

in the 5-15 μm range (p. 19, line 17-19; p. 20, lines 6-8). In the case of SC formulations, the mean particle size of the dispersed solid is below 5 μm, more typically in the range of 1-3 μm (p. 23, lines 15-20). Essinger and Kirby establish that the use of bifenthrin in the instantly claimed particle size is commonplace in the type of formulations used by Jaetsch. One would be motivated to look to the related literature since Jaetsch is silent as to this parameter. Thus, there is more than adequate reason for an artisan to combine the references. No improper hindsight has been used.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaetsch in view of Essinger, Kirby, as applied to claims 1, 2, and 21-25 above, and further in view of BUSCHHAUS (WO 98/18328; Published May 7, 1998; 5th reference cited on IDS dated Jun. 2, 2005).

7. The teachings of Jaetsch, Essinger, and Kirby are presented *supra*. Jaetsch does not explicitly disclose the useful range of bifenthrin in the compositions and does not teach phenol formaldehyde resins.

8. However, the determination of the amount of insecticide to use in an adhesive for protecting wood against insect pests is clearly a result-effective parameter that would be optimized by the ordinary artisan. The amount of insecticide will vary depending on the type of wood product in which the adhesive is used, the intended use of the wood product (e.g. outdoor, indoor, structural, decorative, etc.), and the species of insect targeted. Determining the optimal amount of bifenthrin would therefore be routine to the skilled artisan. The MPEP states, "Generally, differences in concentration or temperature will not support the patentability of subject matter encompassed by the

prior art unless there is evidence indicating such concentration or temperature is critical. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955)."

9. Moreover, Buschhaus discloses insecticide and resin-containing glues and adhesives for plywood and timber materials (abstract; p. 8, lines 7-18). These adhesives also contain other additives, such as flour (i.e. a spreadability additive) and fungicides (p. 8, lines 15-18). Buschhaus teaches the use of insecticide concentrations from 30-104 g ai/m^3 (examples 1-5). Thus, it would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to use bifenthrin in this concentration range in the formulation of Jaetsch to achieve the desired insecticidal effects, rendering claim 5 obvious.

10. Buschhaus also teaches the use of phenol/formaldehyde resins as well as urea/resorcinol resins, which are taught by Jaetsch (p. 8, lines 10-13). Thus, Buschhaus establishes the equivalence of these components and it would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to substitute one type of resin for another to prepare an adhesive with the desired properties, rendering claim 6 obvious. The ordinary artisan would have a high expectation of success since Jaetsch teaches similar resins (such as phenol resin) as examples.

Response to Arguments

Applicants' arguments have been fully considered but are not persuasive.

Applicants argue that Buschhaus does not cure the alleged deficiency of Jaetsch and does not teach bifenthrin with the claimed particle size (response, p. 9).

The arguments with respect to Jaetsch are addressed *supra* and incorporated herein. Jaetsch is not deficient. In response to applicants' arguments against Buschhaus individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Buschhaus need not disclose bifenthrin with the claimed particle size because the rejection is based on a combination of references. The combination of references teaches each element of the instant claims. The rejection is maintained.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaetsch in view of Essinger, Kirby, as applied to claims 1, 2, and 21-25 above, and further in view of ISATO (JP 8039511; Feb. 2, 1996; 1st reference cited on IDS dated Jun. 2, 2005; translation previously provided).

11. The teachings of Jaetsch, Essinger, and Kirby are presented *supra*. Jaetsch is silent as to the type of flour included in the formulations. While it is the examiner's position that a skilled artisan would know that the flour taught by Jaetsch is or includes wheat flour, Isato is cited for additional support.

12. Wheat flour is a common additive conventionally used in adhesive formulations. For example, Isato discloses bifenthrin-containing adhesives (i.e. glues) for use with, *inter alia*, wood, plywood, laminated wood and other wood products (abstract; par.

[0004] of translation). The adhesives disclosed by Isato also contain additives including wheat flour (par. [0006] and example of translation). Thus, it would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to use wheat flour as the flour component in the adhesives of Jaetsch. Claim 26 is rendered obvious.

Response to Arguments

Applicants' arguments have been fully considered but are not persuasive. Applicants argue that Isato does not cure the alleged deficiency of Jaetsch and does not teach bifenthrin with the claimed particle size (response, p. 9).

The arguments with respect to Jaetsch are addressed *supra* and incorporated herein. Jaetsch is not deficient. In response to applicants' arguments against Isato individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Isato need not disclose bifenthrin with the claimed particle size because the rejection is based on a combination of references. The combination of references teaches each element of the instant claims. The rejection is maintained.

Regarding the obviousness rejections herein, it is noted that a reference is good not only for what it teaches by direct anticipation but also for what one of ordinary skill in the art might reasonably infer from the teachings. (*In re Opprecht* 12 USPQ 2d 1235, 1236 (Fed Cir. 1989); *In re Bode* 193 USPQ 12 (CCPA) 1976). In light of the forgoing discussion, the examiner concludes that the subject matter defined by the instant claims

would have been obvious within the meaning of 35 USC 103(a). From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, in the absence of evidence to the contrary, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

U.S. Patent Application No. 10/537,192

Claims 1, 2, 6, 21, 24, and 25 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10, 11, 14, 15, and 22 of copending Application No. 10/537,192 in view of in view of Jaetsch, Essinger, Kirby, and Isato. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the '192 claims renders obvious that of the instant claims. The '192 claims are drawn to a wood product that has been treated with a bifenthrin composition. The composition may include a

resin and may thus be an adhesive (i.e. glue) (see '192 claim 7). '192 claims 11, 14, 15, and 22 recite the other limitations of the instantly rejected claims. The '192 claims do not recite a particle size for the bifenthrin. However, by the reasoning applied above, it would be obvious for the skilled artisan to use the instantly claimed particle size per the teachings of Essinger and Kirby.

Claims 1, 2, 6, 21, 24, and 25 are directed to an invention not patentably distinct from claims 10, 11, 14, 15, and 22 of commonly assigned 10/537,192. Specifically, see above.

The U.S. Patent and Trademark Office normally will not institute an interference between applications or a patent and an application of common ownership (see MPEP Chapter 2300). Commonly assigned 10/537,192, discussed above, would form the basis for a rejection of the noted claims under 35 U.S.C. 103(a) if the commonly assigned case qualifies as prior art under 35 U.S.C. 102(e), (f) or (g) and the conflicting inventions were not commonly owned at the time the invention in this application was made. In order for the examiner to resolve this issue, the assignee can, under 35 U.S.C. 103(c) and 37 CFR 1.78(c), either show that the conflicting inventions were commonly owned at the time the invention in this application was made, or name the prior inventor of the conflicting subject matter.

A showing that the inventions were commonly owned at the time the invention in this application was made will preclude a rejection under 35 U.S.C. 103(a) based upon the commonly assigned case as a reference under 35 U.S.C. 102(f) or (g), or 35 U.S.C. 102(e) for applications pending on or after December 10, 2004.

Response to Arguments

Applicants request that the double patenting rejections be held in abeyance. A request to hold a rejection in abeyance is not a proper response to a rejection. Rather, a request to hold a matter in abeyance may only be made in response to an OBJECTION or REQUIREMENTS AS TO FORM (see MPEP 37 CFR 1.111(b) and 714.02). Thus, the double patenting rejections of record have been maintained as no action regarding these rejections has been taken by applicants at this time.

Summary/Conclusion

Claims 1, 2, 5, 6, and 21-26 are rejected; claims 3, 4, and 7-20 are cancelled.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S. Orwig whose telephone number is (571)270-5869. The examiner can normally be reached Monday-Friday 7:00 am-4:00 pm (with alternate Fridays off). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sharmila Landau can be reached Monday-Friday 8:00 am-5:00 pm at (571)272-0614. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin S Orwig/

/David J Blanchard/
Primary Examiner, Art Unit 1643